

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 2004-114

March 5, 2004

CENTRAL MAINE POWER COMPANY
Request for Temporary Generation Request
To Support Southern York County System
Reinforcement Project

ORDER

WELCH, Chairman; DIAMOND and REISHUS, Commissioners

I. SUMMARY

We authorize Central Maine Power Company (CMP) to lease, install and operate three small diesel generation units (one in Kittery and two in York) that are needed to provide voltage support during the construction of a project known as the Southern York County System Reinforcement Project. We also decide that CMP does not need a waiver of the bidding and selection process set forth in Chapter 307 of our Rules because generating assets that are necessary to efficiently operate a transmission and distribution utility are excepted from the requirements of Chapter 307.

II. BACKGROUND

The Southern York County System Reinforcement Project (the York Project) involves constructing new substations in Kittery and York, other substation as well as transmission line upgrades, and a new 34.5 kV transmission line from Kittery into York. The York Project was the subject of a 10-person complaint concerning the need and proper location of the proposed transmission project. The complaint case was resolved when the Commission approved a stipulation that found that the project was necessary for voltage support and reliability in the southern York County area. *Laurie Downs et al. v. Central Maine Power Company*, Docket No. 2002-665 (Aug. 14, 2003).

On February 10, 2004, CMP filed a letter with the Commission requesting approval to locate and operate diesel generating units in Kittery and York from May 1, 2004 to September 30, 2004. CMP states that the generating units may be needed to provide voltage support in the southern York County area, and thus are needed for CMP to operate its T&D network in an efficient manner.

CMP reports that construction of the York Project has begun, and that current plans provide for the new Kittery-York transmission line to be energized by June 15, 2004. Until the new line is energized, CMP asserts that voltage support may be necessary in Kittery or York during peak periods occurring on hot days or evenings.

To provide voltage support, CMP proposes to locate one 2.0 MW diesel generating unit within the fenced-in, new substation in Kittery, and two 2.0 MW units within the new Bragdon Commons substation in York. CMP asks for permission to

operate the units until September 30, 2004 in case construction is delayed and not completed until after the hot weather months.¹

CMP also asks for a waiver of Chapter 307 of the Commission's Rules, which it states would otherwise require CMP to auction the energy produced by the diesel generating units.

III. DECISION

The Restructuring Act, at 35-A M.R.S.A. § 3204(6), authorizes the Commission to allow an investor-owned transmission and distribution (T&D) utility to own:

...a generation asset that the Commission determines is necessary for the utility to perform its obligations as a transmission and distribution utility in an efficient manner.

35-A M.R.S. A. § 3204(1)(D).

The record in the complaint case established the need for the voltage support and reliability improvements in the region that will be satisfied by the York Project.² Until the new transmission line is brought on-line, it is possible that during hot weather that existing substations and wires will exceed their capacity rating and result in low or fluctuating voltage that causes damage to electrical equipment or even causes the system to drop load, i.e. to interrupt service to customers. We find prudent CMP's proposal to locate generation in the area to provide voltage support until the new line is energized. We also find it prudent to plan for the possibility that construction may be delayed throughout the entire hot weather period of 2004. We agree that the three diesel generating units are necessary, at least until as late as September 30, 2004, for CMP to operate its system efficiently (in this case, to operate adequately) as a T&D utility. Therefore, we authorize CMP to lease the three diesel generating units, to locate them as described above, and to operate them as needed for voltage support.

In its filing, CMP states that the Restructuring Act (35-A M.R.S.A. § 3204(4)) requires CMP to sell all energy and capacity pursuant to the auction process set out in Chapter 307 of the Commission's Rules, except for those rights to energy and capacity that the Commission finds are necessary for CMP to perform its T&D functions efficiently. CMP states that the diesel generators are needed for voltage support, but

¹ CMP reports that the diesel units will receive an air license or permit from the Department of Environmental Protection as "minor sources," which will allow CMP to operate the units for no longer than one year.

² The Staff Report filed in the *Downs* complaint case found that, even before the summer of 2003, some of the area's substations and wires had already exceeded their capacity ratings to deliver electricity at adequate voltage.

that CMP does not need the energy produced by the three units to operate efficiently. CMP then concludes that it is required to sell this “unneeded” capacity and energy associated with the units using the Chapter 307 process. CMP asks for a waiver of the Chapter 307 process because that process is not “well-suited to the current situation of temporary, short-term generation needed for voltage support during transmission upgrades.”

We agree with CMP that the Chapter 307 process is not well-suited to the current situation. We conclude that CMP should not be required to engage in an auction process to dispose of the capacity and energy from the diesel units to be located in Kittery and York. As CMP has requested a waiver of the Chapter 307 requirements, we grant CMP a waiver. We do so, however, by assuming a waiver is required and do not address the question of whether the Chapter 307 requirements require an auction process in this instance.³

Accordingly, we grant CMP’s request as described in the body of this Order.

Dated at Augusta, Maine, this 5th day of March, 2004.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
 Diamond
 Reishus

³ Section 9 of Chapter 307 provides that the Rule does not apply to capacity and energy from a generating unit that is needed for the T&D to operate efficiently. Capacity and energy is defined as the output from generating assets. It is conceivable that section 9 exempts the entire output of a unit needed for voltage support, and not merely some of the attributes of the output. As CMP’s request involves a minimal operation of small generating units, and CMP and other interested persons have not had the opportunity to address the issue of the proper interpretation of section 9, we leave that issue to be decided at a later time.

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within **21 days** of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.